

**REMARKS/ARGUMENTS**

Upon entry of this amendment, claims 28-58, 82-88 and 89-120 will be pending in this application and presented for examination. Claims 28-41 56-58 and 82-88 have been allowed. Claims 28, 37, 82 and 87 have been amended to correct minor typographical errors. In claim 28, "a therapeutic genes" has been amended to be --a therapeutic gene--. The term "antisense nucleic acid" in claim 37 has been deleted and added as dependent claim 92. The term "an" has been added in front of "interferon" in claim 82. Claim 87 was amended to include a period. Claims 89-120 are newly added. Reconsideration is respectfully requested.

Claims 89-120 are newly added. Support for claim 89 is found, for example, on page 17, lines 8-10. Support for claim 90 is found, for example, on page 13, lines 11-13. Support for claim 91 is found, for example, on page 14, lines 25-29.

Support for claim 92 is found, for example, in claim 28. Support for claim 93 is found, for example, in claim 28. Support for claims 94-95, is found, for example, on page 14, line 13. Support for claim 96 is found, for example, on page 14, lines 27-28. Support for claim 97 is found, for example, on page 14, lines 28.

Support for claim 98 is found, for example, in claims 56 and 82. Claims 99-103 find support, for example, in claims 82-84. Claims 104-106 find support, for example, in claims 86-88, and Example 3 on page 24, wherein the CMV promoter is set forth. Support for claim 107 is found, for example, on page 17, lines 8-10.

Support for claims 108-110 is found, for example, on page 17, lines 20-22. Claim 111 finds support, for example, in claim 15 as originally filed. Claim 112 finds support, for example, on page 19, lines 10-17. Claim 113 finds support, for example, on page 20, lines 5-10. Support for claims 114-116 is found, for example, on page 13, lines 11-13. Support for claim 117 is found, for example, on page 14, lines 25-29. Support for claim 118 is found, for example, on page 14, lines 28. Support for claim 119 is found, for example, in claim 28. Support for claim 120 is found, for example, in claim 28.

As such, no new matter has been entered with the foregoing new claims. Applicants respectfully request that they be entered.

Appl. No. 10/055,863  
Amdt. dated April 10, 2006  
Reply to Office Action of July 5, 2005

PATENT

Claims 42-58 were rejected under the judicially created doctrine of obviousness-type double patenting for allegedly being obvious over claims 41 and 54-56 of U.S. Patent Application No. 08/889,355. Applicants respectfully submit a terminal disclaimer to obviate the double patenting rejection. As such, Applicants respectfully request that the Examiner withdraw the rejection.

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



Joseph R. Snyder  
Reg. No. 39,381

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 925-472-5000  
Fax: 415-576-0300  
Attachments  
JS:js  
60744047 v1